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REMARKS

I. Status of Claims.

Claims 1-2, 4-5, 7-25 and 43-48 are presently pending. Claims 1-2, 4-5, 7-25 and 43-48 stand rejected. Claims 16 and 24 have been cancelled by the present amendment because they contain duplicitous subject matter as amended claim 1. Claim 1 has been amended to further emphasize Applicant's invention. Support for the amendment to claim 1 can be found throughout the specification, drawings and originally filed claims, in particular support for the amendments to claim 1 can be found on page 26 lines 16-31 of Applicant's specification.

II. INTERVIEW SUMMARY

The courtesy of the telephonic interview on November 20, 2003, between John C. Serio, Attorney for Applicant, and Examiner Dionne A. Walls in the above referenced matter is gratefully acknowledged. During the course of this interview, the status of prosecution and pending rejections were discussed. Examiner Walls indicated that if Applicant amended the claims to reflect that the components of Applicant's filter were in a mixture and if the priming effect of the moisture component could be further claimed that perhaps these amendments would distinguish Applicant's claimed invention over the prior art. Applicant thanks Examiner Walls for conducting this interview and the courtesies extended during such interview.

III. Claims 1-2, 5, 7-25 and 43-48 are rejected under 35 USC 103 (a).

The Examiner rejected claims 1-2, 5, 7-25 and 43-48 under 35 USC 103 (a) as being unpatentable over Schreus in view of Eichel U.S. Patent No. 3,459,194 (Eichel). Claims 16 and 24 have been cancelled by the present amendment and their respective subject matter has been incorporated into currently amended claim 1.

The Examiner states that while Schreus may not disclose using a strongly basic anion exchange resin that is in bicarbonate form; a filter that further comprises methyl cellulose or moisture; a filter having ratio of filter material to tobacco in the range of from 1:2 to 1:10, Eichel discloses a tobacco product incorporating a filter containing an ion exchange resin, designed to

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inhibit the adverse effects of tobacco smoke. The Examiner suggests that it would have been obvious to incorporate the components of Eichel into the filter of Schreus. Applicant respectfully traverses this rejection.

As the Examiner noted in her rejection in response to Applicant previous amendments and response, it is noted that a feature upon which Applicant relies a "mixture" of the four elements is not recited in the rejected claims. Applicant has amended claim 1 to recite this limitation and to further emphasize that the "moisture permits the selective removal by said mixture of highly reactive and appropriately polar substances that are toxic and non-toxic".

In the instant case, neither cited reference contains a mixture of "a strongly acidic cation exchange resin" and "a strongly basic anion exchange resin in bicarbonate form" in the presence of "moisture" wherein said moisture permits the selective removal by said mixture of highly reactive and appropriately polar substances that are toxic and non-toxic. Since the presence of moisture within the inventive filter is not found in the art, it is fair to assume that in raising the obviousness rejection, the Examiner gleaned knowledge from Applicant's disclosure contrary to well-established legal principles. Applicant respectfully requests that the rejected claims as amended be favorably reconsidered in light of well-established legal principles, which provide,

"That one skilled in the art is not synonymous with obviousness.... That one can reconstruct and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the reference to make the claimed invention" Ex parte Levengood, 28 USPQ 2d 1300 (Bd. Pat. App. & Inter. 1993).

The particular combination of the cited references, which the Examiner makes in an attempt to arrive at the Applicant's invention, is neither taught nor suggested by either reference. The references, alone or in combination, because of the differences in the features of each as discussed above, do not provide "sufficient impetus" to support the combination that the Examiner makes to effect the obviousness rejection. Furthermore, the combination that the Examiner suggests does not arrive at the Applicants' invention.

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The Examiner rejected claims 10-14, stating that while Schreus et al may not specifically recite the claimed threading arrangement of the filter cartridge, it does state that the filter cartridge is designed so that it fits tightly into a hollow chamber of a holder, pipe, etc. Applicants have amended claim 9 from which claims 10-14 depend to reflect that Applicant's tobacco filter is contained within a cartridge adapted to retain said moisture. Applicant respectfully suggests that the amendment to claim 9 overcomes this rejection. Applicant respectfully requests that this rejection be withdrawn.

The Examiner further rejected claims 15, 19-20 and 43-45 and 48 suggesting that the filter of Schreus modified by Eichel would be capable of the intended use recited in the rejected claims. Applicant respectfully suggests that the amendments to claims 1 and 9 have overcome this rejection. Applicant respectfully requests that this rejection be withdrawn.

III. Claim 4 is rejected under 35 USC 103 (a).

The Examiner rejected claim 4 as being unpatentable over Schreus in view of Bavley et al. U.S. Patent No. 3,280,823 (Bavley). The Examiner states that while Schreus may not specifically state that the strongly acidic cation exchange resin is selected from the group consisting of Dowex 50 and Dowex 50-W, Bavley discloses a filter employing strong cation-type resins and discloses that Dowex 50-W is a known resin of such type and is suitable for use as an ion-exchange in its filter. Applicant respectfully traverses this rejection.


Applicant respectfully suggests that neither Schreus nor Bavley discloses a filter that contains a mixture of a strongly acidic cation exchange resin, a strongly basic anion exchange resin in bicarbonate form, a methyl cellulose material, and moisture wherein said moisture permits the selective removal by said mixture of highly reactive and appropriately polar substances that are toxic and non-toxic. Applicant respectfully suggests that the claim 1 as amended from which claim 4 depends is not made obvious by Schreus in view of Bavley and would therefore respectfully request that this rejection be withdrawn.

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CONCLUSION

The claims remaining within the application are believed to patentably distinguish over the prior art and to be in condition for allowance. Early and favorable consideration of this application is respectfully requested.

Respectfully submitted,



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